

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11694 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI and  
MR.JUSTICE Y.B.BHATT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
BHOJRAJ CHARITABLE TRUST & 1

Versus

RBL AGGARWAL & 1

-----  
Appearance:

MR JAYANT PATEL for Petitioner

Mr. B.J.Shelat for MR MANISH R BHATT for Respondents

-----  
CORAM : MR.JUSTICE S.M.SONI and  
MR.JUSTICE Y.B.BHATT

Date of decision: 17/10/96

ORAL JUDGEMENT (Per Soni J.)

Leave to amend.

We have heard the learned Counsels. We are able to dispose of this petition on the ground that the impugned order is bad inasmuch as the same does not contain any reasons.

Petitioner - a Public charitable trust -

registered under the provisions of the Bombay Public Trusts Act, has challenged the order dated 23.8.94 passed by the Commissioner of Income-Tax, Gujarat - III, Ahmedabad under section 273 A (1) of the Income-Tax Act, 1961. By the said order, the Commissioner of Income tax has passed an order to waive interest and penalty, as detailed therein. According to the petitioners, instead of 100% allowance of waiver of interest and penalty, only 50% is allowed.

Any order that may be passed by quasi-judicial authority is required to be a reasoned one. The impugned order does not contain any reason, except a statement that considering the facts of the case, the order is passed. In view of this fact, the order is bad, as reasons are not assigned.

We, therefore, set aside the order and remand the matter back to the Commissioner of Income-tax, who shall decide it afresh in accordance with law and pass a speaking order. Rule is made absolute with no order as to costs.

Petitioners are directed to continue the Bank Guarantee given by them until the matter is decided by the Commissioner of Income-tax after remand.

-----